

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY**

JONATHAN T. DAMRON,

Plaintiff,

v.

CIVIL ACTION NO. 5:21-cv-00085

MAJOR D.J., *et al.*,

Defendants.

ORDER

Pending is Plaintiff's Motion to Withdraw Complaint [Doc. 67], filed on December 2, 2022. This action was previously referred to the Honorable Omar J. Aboulhosn, United States Magistrate Judge, for submission of proposed findings and a recommendation ("PF&R"). Magistrate Judge Aboulhosn filed his PF&R on December 19, 2022. Magistrate Judge Aboulhosn recommended that the Court grant Plaintiff's Motion to Withdraw Complaint, deny as moot Defendant's Motion for Summary Judgment, dismiss Plaintiff's Complaint without prejudice, and remove this matter from the Court's docket.

The Court need not review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140 (1985); *see also* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations *to which objection is made.*" (emphasis added)). Failure to file timely objections constitutes a waiver of de novo review and the Petitioner's right to appeal the Court's order. *See* 28 U.S.C. § 636(b)(1); *see also United States v. De Leon-*


Ramirez, 925 F.3d 177, 181 (4th Cir. 2019) (Parties may not typically “appeal a magistrate judge’s findings that were not objected to below, as § 636(b) doesn’t require de novo review absent objection.”); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989). Further, the Court need not conduct de novo review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections in this case were due on January 5, 2023. No objections were filed.

Accordingly, the Court **ADOPTS** the PF&R [**Doc. 68**], **GRANTS** Plaintiff’s Motion to Withdraw Complaint [**Doc. 67**], **DENIES AS MOOT** Defendant’s Motion for Summary Judgment [**Doc. 52**], **DISMISSES** Plaintiff’s Complaint without prejudice [**Docs. 1, 5, 7, 39**], and **DISMISSES** the matter.

The Court **DIRECTS** the Clerk to transmit a copy of this Order to any counsel of record and any unrepresented party.

ENTER: January 12, 2023




Frank W. Volk
United States District Judge